vss

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE CIVIL JURISDICTION

WRIT PETITION NO.5707 OF 2003

Smt.Suvarna R. Abba
70/15, Kalwar Bldg., 4th floor,
3rd Kamathipura Lane
Mumbai ... Petitioner

V/s.

1. The Government of Maharashtra
Through the Secretary
Agriculture, Dairy Development
& Fisheries Department
Mantralaya, 3rd floor (Annex)
Mumbai - 400 032

2. The Dairy Development
Commissioner, Maharashtra State
Mumbai, Administrative Building
Abdul Gaffar Khan marg
Mumbai - 18. ... Respondents

Ms.V. Kamat with Mr.M.D. Lonkar for Petitioner
Mr.S.R. Nargolkar, AGP, for Respondents

CORAM: **V.G. PALSHIKAR, Ag.C.J &**
SMT.NISHITA MHATRE, J.

DATED: **FEBRUARY 2, 2006**

ORAL JUDGMENT (PER SMT.MHATRE, J.):

. The Petitioner challenges the dismissal of the Original Application filed by her before the Maharashtra Administrative Tribunal in order to obtain a deemed date of promotion to the post of Higher Grade Stenographer.

2. The facts giving rise to the present petition are as follows:

The Petitioner was appointed as a Steno-typist through the Employment Exchange in the Office of the Commissioner for Dairy Development. She successfully passed the Maharashtra Public Service Commission examination and was appointed as Stenographer-Lower Grade. She also passed the examination conducted by the Board of Commercial School Certificate. On 2.3.1985, the Office of Respondent No.2 called upon the eligible stenographers to produce the certificate of stenography and typing. Accordingly, the petitioner submitted the required certificate on 15.12.1986. It is the petitioner's grievance that despite the certificate having been submitted, the respondents did not consider her for promotion to the post of Higher Grade Stenographer in the years 1987, 1989, 1993, 1995. Representations were made by her from time to time and according to the Petitioner unqualified persons were appointed as Stenographer Higher Grade. It appears that one of the Lower Grade Stenographers had filed Original Application No.496 of 1995 before the Maharashtra Administrative Tribunal, which was dismissed. Certain directions were given to the Respondents regarding maintainance of the seniority list. The seniority list was published by the Respondents on 12.7.2001 in accordance with these directions. The petitioner's name

figured at serial No.3. The Petitioner claims that she should have been considered for the post of Higher Grade stenographer immediately after she obtained the requisite qualifications in October 1984 and, therefore, should have been appointed as one from 1987 onwards. She, therefore, seeks the relief of a deemed date of promotion to the post of Higher Grade Stenographer from 1987 onwards and the consequential benefits.

3. The Original Application was opposed by the Respondents. According to them, the Petitioner's seniority was correctly reflected in the seniority list published on 12.7.2001. She had been appointed as a Lower Grade Stenographer on 10.4.1991 whereas the person at serial No.1 had joined as Lower Grade Stenographer w.e.f. 21.5.1973. The person at serial No.1 was promoted to the post of Higher Grade Stenographer on 6.3.1987. The Petitioner was appointed as Higher Grade Stenographer w.e.f. 27.6.1995.

4. The Tribunal after considering the rival contentions of the parties has held that the Petitioner is not entitled to the relief claimed in the application. However, the Tribunal directed the Respondents to hold a reviewed departmental promotion committee to consider the case of the Petitioner for

further promotion to the post of Personal Assistant if she was otherwise fit, eligible and deserving.

5. The Tribunal has accepted the fact that the Petitioner had the requisite qualifications in October 1984 and that she had submitted the certificate on 15.12.1986. The Tribunal has observed that the applicant was deprived of promotion to the post of Higher Grade Stenographer w.e.f. 1987. The Tribunal observed that though prima facie it appeared that the candidate at serial No.1 in the seniority list was unqualified, the Petitioner had not pursued this line of submission and had not called upon the respondents to produce any material to establish that the candidate at serial No.1 was duly qualified. In these circumstances, the Tribunal was of the view that the injustice caused to the Petitioner would be alleviated by directing the respondents to hold review departmental promotion committee and to consider the claim of the Petitioner for further promotions to the post of Personal Assistant which was likely to fall vacant.

6. In our view, it is difficult to set the clock back even assuming the Petitioner was qualified in 1987 to be promoted as a Higher Grade stenographer. The

Petitioner has chosen to challenge her seniority after an inordinate delay of 14 years. The Tribunal in our opinion, rightly rejected the application of the Petitioner which was made for correction of her seniority after over 14 years. The Tribunal has appreciated the facts and the material on record and has in accordance with law directed that the review departmental promotion committee be held when the Petitioner’s case could be considered.

7. We see no reason to interfere with this finding of the Tribunal. There is no jurisdictional error nor is there any error of law apparent on the face of the record. No interference is called for. The Petition is rejected. Rule discharged. No order as to costs.